(1) (3)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

Civil Revision No. 85 /2006 **Single Bench**

Applicants :- Objectors ~~Plaintiffs~~

1. Sanjay Kumar aged 28 years son of Sundarlal Kashyap
2. Vijay Kumar aged 24 years son of Sundarlal Kashyap
3. Suresh Kumar aged 20 years son of Sundarlal Kashyap

all of them caste Kachhi, resident of village Ghuru, Tahsil Takhatpur Distt. Bilaspur (C.G.)

RECEIVED-COPY 5/5/06 CLERK to A. G. BILASPUR

VERSUS

Respondents :- ~~Defendents~~ Pet.

1. Madanlal Kurre aged 40 years son of Mohanlal Satnami
2. Sundarlal son of Shyamlal Kashyap

Both of them resident Village Ghuru, Tahsil Takhatpur, Distt. Bilaspur (C.G.)

3. State of Chhattisgarh through Collector, Bilaspur (C.G.)

13/2/06 Kamal Jaiswal G.A.R.S. to A.G.

Civil Revision Under Section 115 of The Code Of Civil Procedure.

(47)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

C.R.No. 85/2006

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	26.06.2006 Shri Kamal Pandey, Counsel for the applicants. Heard on admission. This Revision has been directed against the order dated 24.3.2006 passed in Execution Case No.69-A/2002 by the Third Civil Judge Class-I, Bilaspur. It appears that by the said order, the Executing Court has dismissed the objections of the applicants filed under Section 47 of the C.P.C. The objections were that the suit lands were not the self-acquired property of their father and the same were the property purchased by the earnings of the joint family and the decree regarding direction to execute a sale-deed of the joint family property holding it to be self-acquired property of the father is bad in law and the execution of the said clause of the decree cannot be done. The Executing Court dismissed the said application holding that the said Court cannot go beyond the terms of the decree. In the opinion of this Court, the Executing Court has applied a right preposition of law. An Executing Court cannot go behind the decree nor can it question its legality or correctness. However, there is an exception to this rule and that is that where the decree sought to be executed is a nullity for lack of inherent jurisdiction in the Court passing it and if this exception is there, then only, the Executing Court can entertain an objection on the ground that the decree is a nullity and can refuse to execute the decree and this will not amount to going behind the decree, because the decree	

छे देखिये

XI-HC-22

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being null and void, there would really be no decree at all. Please see ***AIR 1977 S.C. 1201 Sunder Dass vs. Ram Parkash*** in which **AIR 1954 SC 340** and **AIR 1962 SC 199** are followed.

I do not find any reason to interfere with the order passed by the Executing Court.

The Revision has no merit and the same is dismissed.

Sd/-
Sunil Kumar Sinha
Judge